# STATE OF MICHIGAN

# COURT OF APPEALS

In the Matter of DAVENTE FELTON, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

V

SHAWNE FELTON,

Respondent-Appellant.

UNPUBLISHED
November 25, 2003

No. 247053
Genesee Circuit Court
Family Division
LC No. 00-113440-NA

Before: Murray, P.J., and Gage and Kelly, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (g) and (j). We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E)(1)(b).

This Court reviews a trial court's decision to terminate parental rights for clear error. MCR 5.974(I), now MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). If the trial court determines that petitioner established the existence of one or more statutory grounds for termination by clear and convincing evidence, then the trial court must terminate respondent's parental rights unless it determines that to do so is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353-354; 612 NW2d 407 (2000). We review for clear error the trial court's decision with regard to the child's best interests. *Id*. at 356-357.

After reviewing the record brought before us, we are satisfied that the trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. Indeed, testimony and evidence presented at trial clearly demonstrated that respondent's decision to participate in the referred services was not motivated by a genuine desire to change, but rather, "to try to . . . look better." Respondent only began to participate in the various services when "his feet [were held] to the fire."

Initially, respondent refused even to sign the parent-agency agreement, believing that he already knew how to be an appropriate parent and thus did not need any instruction. Eventually respondent participated in parenting classes, but his attendance was poor and he failed to benefit

from the instruction. Instead, respondent remained faithful to his belief that corporal punishment was an acceptable approach to disciplining children. Consistent with his beliefs, respondent admitted that he "occasionally" administered corporal punishment to discipline his son. On that point, respondent admitted that he "whooped" his son on approximately three occasions. However, for those incidents that did not merit physical punishment, respondent claimed that he let the child off "scot-free" by merely "yelling" at him. Further, respondent also admitted that, in lieu of "whooping" his son, he might elect instead to "threaten" the child. According to respondent, children need to be "strongly disciplined." Though he "whooped," "threatened" and "yelled," at Davente, respondent testified that he could not explain why son feared him.[1]

Respondent also failed to seek substance abuse treatment until six months after he signed the parent-agency agreement because he did not believe that he had a substance abuse problem. Respondent instead believed that he could discontinue using illicit substances on his own, and only after unsuccessfully attempting to quit "cold turkey," did respondent begin substance abuse counseling. Given respondent's reluctance to admit and thus accept his addiction, his counselor advised that his progress in therapy was slow. Additionally, though respondent participated in individual counseling for substance abuse, respondent advised that he would not participate in a twelve-step program to remain substance-free because he did not need to be "surrounded by a group of people in a meeting." As of the time of the termination trial, respondent reported that he had not used illicit substances for seven months.

In addition, respondent admitted that he did not have his own independent residence and that he alternated between his grandmother's and sister's homes. Indeed, respondent failed to offer any evidence to demonstrate that his grandmother's residence would be an appropriate, stable home environment for Davente.

Considering the evidence and testimony presented on the whole record, the trial court did not clearly err in finding that respondent failed to provide proper care and custody for his child and there was no reasonable expectation that he would do so within a reasonable time. Moreover, given respondent's attitude toward parenting, reluctance to admit his drug addiction and concomitant slow progress in substance abuse counseling, there is a reasonable likelihood that if returned to respondent's care and custody Davente would be harmed.

Further, we find that the evidence produced did not demonstrate that termination of respondent's parental rights was antithetical to the child's best interests. MCL 712A.19b(5);

[1] We note that during one visit at the agency, respondent lectured then six-year-old Davente about "life" and "being a man." While respondent claimed he imparted his wisdom in a "kind manner," evidence at trial unequivocally revealed that, after the visit, the child went home to his foster care placement and hid in a closet, utterly traumatized by the lecture.

*Trejo*, *supra* at 356-357. Accordingly, the trial court did not err in terminating respondent's parental rights to his minor child.

Affirmed.

/s/ Christopher M. Murray
/s/ Hilda R. Gage
/s/ Kirsten Frank Kelly